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TAYLOR *v.* COMMONWEALTH.

Jan. 10, 1918.

[94 S. E. 795.]

1. Criminal Law (§ 121*)—Jury (§ 7*)—Change of Venue—Discretion.—The trial court must be allowed a wide discretion in deciding motions for change of venue, and for a jury from another county.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 8; 13 Va.-W. Va. Enc. Dig. 609.]

2. Criminal Law (§ 1144 (6)*)—Change of Venue—Local Prejudice.—Where no exception was taken to any of jurors composing panel from which trial jury was selected, and an impartial trial jury was secured, this was conclusive proof that motions for change of venue, based on ground that impartial jury could not be obtained, were without foundation.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 538, 611.]

3. Criminal Law (§ 698 (1)*)—Reception of Evidence—Failure to Object.—Where no objections were made to testimony, it will be regarded by the court on appeal as part of the evidence before the jury.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 560.]

4. Criminal Law (§ 1169 (5)*)—Erroneous Admissions of Dying Declaration—Harmless Error.—In prosecution of defendant for a felonious assault upon his wife, where the fact that the wife subsequently took poison resulting in her death, etc., was in evidence without objection, admission of wife's dying declaration was harmless, where the court admonished the jury to disregard the same, and they assured him that they would do so.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 592, 594.]

5. Criminal Law (§ 1169 (5)*)—Erroneous Admissions of Dying Declaration—Harmless Error.—Where improper evidence has been admitted, the error is rendered harmless by the subsequent acts of the trial court in striking out and specifically instructing the jury to disregard, unless there be reason to apprehend that such evidence has prejudiced the jury.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 592, 594.]

6. Criminal Law (§ 1144 (5)*)—Instruction to Disregard Improper Testimony—Presumption.—It will be presumed on appeal that the jury followed the directions of the court to disregard testimony improperly admitted.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 611.]

7. Criminal Law (§ 368 (1)*)—Res Gestae—Statement of Third Person.—The spontaneous and simultaneous outcry of a little boy while

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

defendant was beating the boy's mother was admissible as part of the *res gestae*.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 921.]

Error to Circuit Court, Fairfax County.

James L. Taylor was convicted of a felonious assault on his wife, and brings error. Affirmed.

Frederick R. Whipple, of Washington, D. C., for plaintiff in error.

The Attorney General, for the Commonwealth.

POWERS et al. *v.* CITY OF RICHMOND.

Jan. 24, 1918.

[94 S. E. 803.]

1. Municipal Corporations (§ 957 (1*))—Taxation—Constitutional Requirements—Imposing, Continuing or Reviving Tax.—Acts 1899-1900, c. 864, reenacting sections 75, 76, 78-80, 82, and 83 of charter of Richmond, is not in conflict with Const. 1869, art. 10, § 16, nor with the similar provision of Const. 1902, § 50 (Code 1904, p. ccxx), that "every law imposing, continuing or reviving a tax shall specifically state such tax, and no law shall be construed as so stating such tax, which requires a reference to any other law, or any other tax," since such act neither imposes, continues, or revives a tax, but merely extends a lien.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 230; 12 Va.-W. Va. Enc. Dig. 755.]

2. Taxation (§ 28*)—Delegation of Power to Local Authorities.—Although the power to levy taxes is legislative in its character, the General Assembly may confer upon counties, cities, corporations, and other organized bodies the power to impose taxes for local purposes.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 77.]

3. Taxation (§ 338*)—Particular Estates and Interests.—Under Code 1904, § 465, land must be assessed in the name of the person who by himself or his tenant has the freehold in possession.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 94.]

4. Municipal Corporations (§ 975*)—Taxation—Liens.—Where in accordance with Const. 1902, § 128 (Code 1904, p. ccxliii), requiring that city assessments for municipal purposes shall be the same as for state taxes, land has been properly assessed to a life tenant, the taxes are a lien affecting the interests of the remaindermen.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 240, 241.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.